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11

12 **UNITED STATES DISTRICT COURT**
13 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

14 LISETH AGUIRRE, on behalf of
15 herself and others similarly situated,

16 Plaintiff,

17 v.

18 OPTUM HEALTH PLAN OF
19 CALIFORNIA,

20 Defendant.
21

Civil Case No.:

CLASS ACTION COMPLAINT
FOR VIOLATIONS OF THE
TELEPHONE CONSUMER
PROTECTION ACT [47 U.S.C.
§227(b)(1)(A)(iii)]

JURY TRIAL DEMANDED

22
23 Liseth Aguirre (“Plaintiff”) brings this class action against Optum Health
24 Plan of California (“Defendant”) under the Telephone Consumer Protection Act
25 (“TCPA”), 47 U.S.C. § 227.

26 **Jurisdiction and Venue**

27 1. This Court has subject matter jurisdiction under 47 U.S.C. §
28 227(b)(3) and 28 U.S.C. § 1331.

2. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b)

1 as Defendant has its principal place of business in this district, and as a
2 substantial portion of the events giving rise to this action occurred in this
3 district.

4 3. For example, Defendant directed artificial or prerecorded voice
5 messages to Plaintiff's cellular telephone in this district, and Plaintiff received
6 Defendant's artificial or prerecorded voice messages in this district.

7 **Parties**

8 4. Plaintiff is a natural person who at all relevant times resided in San
9 Bernardino County, California.

10 5. Plaintiff is, and at all relevant times was, a "person" as defined by
11 47 U.S.C. § 153(39).

12 6. Defendant is a Delaware Corporation with its principal place of
13 business in Los Angeles County, California.

14 7. Defendant is, and at all relevant times was, a "person" as defined
15 by 47 U.S.C. § 153(39).

16 **Factual Allegations**

17 8. Plaintiff was, since before March 2024 and throughout the time of
18 the calls at issue, the subscriber to, and sole regular and customary user of, her
19 cellular telephone number—(951) XXX-3726.

20 9. As early as March 2024, Defendant began placing calls, or causing
21 calls to be placed, to telephone number (951) XXX-3726.

22 10. Defendant placed, or caused to be placed, calls to telephone number
23 (951) XXX-3726 intending to reach someone other than Plaintiff.

24 11. Defendant used an artificial or prerecorded voice in connection
25 with the calls it placed, or caused to be placed, to telephone number (951) XXX-
26 3726.

1 12. For example, on March 11, 2024, Defendant placed, or caused to be
2 placed, a call to telephone number (951) XXX-3726 and delivered the following
3 artificial or prerecorded voice message:

4 Hello, this is Optum calling for James Duran. We were calling to
5 share information about an approved authorization. Please call us back
6 any time twenty-four hours a day, seven days a week toll free at 1-
7 844-306-3237. Again, the number is 1-844-306-3237. TTY users
should call 800-735-2922. Thank you and have a good day. Goodbye.

8 13. Later on March 11, 2024, Defendant placed, or caused to be placed,
9 a second call to telephone number (951) XXX-3726 and delivered the following
10 artificial or prerecorded voice message:

11 Hello, this is Optum calling for James Duran. We were trying to reach
12 you to share some important information. Please call us back any time
13 twenty-four hours a day, seven days a week toll free at 1-844-306-
14 3237. Again, the number is 1-844-306-3237. TTY users should call
800-735-2922. Thank you and have a good day. Goodbye.

15 14. On March 12, 2024, Defendant placed, or caused to be placed,
16 another call to telephone number (951) XXX-3726 and delivered the following
17 artificial or prerecorded voice message:

18 Hello, this is Optum calling for James Duran. We were trying to reach
19 you again to share some important information about a request your
20 doctor made. Please call us back any time twenty-four hours a day,
21 seven days a week toll free at 1-844-306-3237. Again, the number is
22 1-844-306-3237. TTY users should call 800-735-2922. Thank you and
have a good day. Goodbye.

23 15. On July 31, 2024, Defendant placed, or caused to be placed,
24 another call to telephone number (951) XXX-3726 and delivered the following
25 artificial or prerecorded voice message:

26 Hello, this is Optum calling for James Duran. We were calling to
27 share information about an approved authorization. Please call us back
28 any time twenty-four hours a day, seven days a week toll free at 1-

1 844-306-3237. Again, the number is 1-844-306-3237. TTY users
2 should call 800-735-2922. Thank you and have a good day. Goodbye.

3 16. Defendant then placed, or caused to be placed, a second call to
4 telephone number (951) XXX-3726 on July 31, 2024, and delivered the
5 following artificial or prerecorded voice message:

6 Hello, this is Optum calling for James Duran. We were trying to reach
7 you to share some important information. Please call us back any time
8 twenty-four hours a day, seven days a week toll free at 1-844-306-
9 3237. Again, the number is 1-844-306-3237. TTY users should call
800-735-2922. Thank you and have a good day. Goodbye.

10 17. On August 1, 2024, Defendant placed, or caused to be placed,
11 another call to telephone number (951) XXX-3726 and delivered the following
12 artificial or prerecorded voice message:

13 Hello, this is Optum calling for James Duran. We were trying to reach
14 you again to share some important information about a request your
15 doctor made. Please call us back any time twenty-four hours a day,
16 seven days a week toll free at 1-844-306-3237. Again, the number is
17 1-844-306-3237. TTY users should call 800-735-2922. Thank you and
have a good day. Goodbye.

18 18. On August 6, 2024, Defendant placed, or caused to be placed,
19 another call to telephone number (951) XXX-3726 and delivered the following
20 artificial or prerecorded voice message:

21 Hello, this is Optum calling for Jonathan Duran. We were calling to
22 share information about an approved authorization. Please call us back
23 any time twenty-four hours a day, seven days a week toll free at 1-
24 844-306-3237. Again, the number is 1-844-306-3237. TTY users
should call 800-735-2922. Thank you and have a good day. Goodbye.

25 19. Defendant's voice messages were generic and similar.

26 20. Given the generic nature of the messages, the content of the
27 messages, and that the messages were similar in tone, voice, content, and style,
28

1 the messages Defendant delivered, or caused to be delivered, to telephone
2 number (951) XXX-3726 were artificial or prerecorded in nature.

3 21. Plaintiff listened to each of the above-referenced artificial or
4 prerecorded voice messages Defendant delivered, or caused to be delivered, to
5 her cellular telephone number.

6 22. Defendant placed, or caused to be placed, the subject calls to
7 telephone number (951) XXX-3726 in an effort to reach James Duran or
8 Jonathan Duran.

9 23. Plaintiff is not James Duran,

10 24. Plaintiff is not Jonathan Duran.

11 25. Plaintiff does not know James Duran.

12 26. Plaintiff does not know Jonathan Duran.

13 27. Plaintiff is not, nor was, a customer of Defendant.

14 28. Plaintiff does not, nor did, have an insurance plan or account with
15 Defendant.

16 29. Plaintiff did not provide telephone number (951) XXX-3726 to
17 Defendant.

18 30. Plaintiff did not provide Defendant with consent to place calls, in
19 connection with which it used an artificial or prerecorded voice, to telephone
20 number (951) XXX-3726.

21 31. Plaintiff did not provide Defendant with consent to place calls, in
22 connection with which it used an artificial or prerecorded voice, to telephone
23 number (951) XXX-3726 intended for a third-party unknown to Plaintiff.

24 32. Defendant placed, or caused to be placed, the subject calls to
25 telephone number (951) XXX-3726 voluntarily.

26 33. Defendant placed, or caused to be placed, the subject calls to
27 telephone number (951) XXX-3726 under its own free will.
28

1 34. Defendant placed, or caused to be placed, the subject calls to
2 telephone number (951) XXX-3726 for non-emergency purposes, as indicated
3 by the content of the messages.

4 35. None of Defendant's above-described artificial or prerecorded
5 voice messages to telephone number (951) XXX-3726 were exigent in nature or
6 otherwise required the recipient's immediate attention.

7 36. Defendant's records will identify each call it placed, or caused to be
8 placed, to telephone number (951) XXX-3726.

9 37. Defendant's records will identify each artificial or prerecorded
10 voice message it played or delivered, or caused to be played or delivered, or
11 attempted to play or deliver, or caused to be attempted to be played or delivered,
12 to telephone number (951) XXX-3726.

13 38. Defendant had knowledge that it was using an artificial or
14 prerecorded voice in connection with the subject calls it placed, or caused to be
15 placed, to telephone number (951) XXX-3726

16 39. Plaintiff suffered actual harm as a result Defendant's subject calls,
17 in connection with which it used an artificial or prerecorded voice, in that she
18 suffered an invasion of privacy, an intrusion into her life, and a private nuisance.

19 40. Plaintiff found the artificial or prerecorded voicemail messages to
20 be irritating and invasive.

21 41. Upon information and good faith belief, Defendant, as a matter of
22 pattern and practice, uses an artificial or prerecorded voice in connection with
23 calls it places, or causes to be placed, to telephone numbers assigned to a
24 cellular telephone service, absent prior express consent.

25 **Class Action Allegations**

26 42. Plaintiff brings this action under Federal Rule of Civil Procedure
27 23, and as a representative of the following class:

28 All persons throughout the United States (1) to whom Optum Health
Plan of California placed, or caused to be placed, a call, (2) directed to

1 a number assigned to a cellular telephone service, but not assigned to
2 a person who has or had an account or health plan with Optum Health
3 Plan of California, (3) in connection with which Optum Health Plan of
4 California used an artificial or prerecorded voice, (4) from four years
5 prior to the filing of this complaint through the date of class
certification.

6 43. Excluded from the class are Defendant, Defendant's officers and
7 directors, members of their immediate families and their legal representatives,
8 heirs, successors, or assigns, and any entity in which Defendant has or had a
9 controlling interest.

10 44. Upon information and belief, the members of the class are so
11 numerous that joinder of all of them is impracticable.

12 45. The exact number of the members of the class is unknown to
13 Plaintiff at this time and can be determined only through appropriate discovery.

14 46. The class is ascertainable because it is defined by reference to
15 objective criteria.

16 47. In addition, the members of the class are identifiable in that, upon
17 information and belief, their telephone numbers, names, and addresses can be
18 identified in business records maintained by Defendant and by third parties.

19 48. Plaintiff's claims are typical of the claims of the members of the
20 class.

21 49. As it did for all members of the class, Defendant placed calls to
22 Plaintiff's cellular telephone number in connection with which it used an
23 artificial or prerecorded voice.

24 50. Plaintiff's claims, and the claims of the members of the class,
25 originate from the same conduct, practice, and procedure on the part of
26 Defendant.

27 51. Plaintiff's claims are based on the same theories as the claims of
28 the members of the class.

1 52. Plaintiff suffered the same injuries as the members of the class.

2 53. Plaintiff will fairly and adequately protect the interests of the
3 members of the class.

4 54. Plaintiff's interests in this matter are not directly or irrevocably
5 antagonistic to the interests of the members of the class.

6 55. Plaintiff will vigorously pursue the claims of the members of the
7 class.

8 56. Plaintiff has retained counsel experienced and competent in class
9 action litigation.

10 57. Plaintiff's counsel will vigorously pursue this matter.

11 58. Plaintiff's counsel will assert, protect, and otherwise represent the
12 members of the class.

13 59. The questions of law and fact common to the members of the class
14 predominate over questions that may affect individual members of the class.

15 60. Issues of law and fact common to all members of the class are:

- 16 a. Defendant's violations of the TCPA;
17 b. Defendant's conduct, pattern, and practice as it pertains to dialing
18 wrong or reassigned cellular telephone numbers;
19 c. Defendant's conduct, pattern, and practice as it pertains to placing
20 calls with an artificial or prerecorded voice to wrong or reassigned
21 cellular telephone numbers;
22 d. Defendant's use of an artificial or prerecorded voice; and
23 e. The availability of statutory penalties.

24 61. A class action is superior to all other available methods for the fair
25 and efficient adjudication of this matter.

26 62. If brought and prosecuted individually, the claims of the members
27 of the class would require proof of the same material and substantive facts.
28

1 placed, to Plaintiff's cellular telephone number and the cellular telephone
2 numbers of the members of the class, without consent.

3 72. As a result of Defendant's violations of 47 U.S.C. §
4 227(b)(1)(A)(iii), Plaintiff and the members of the class are entitled to damages
5 in an amount to be proven at trial.

6 **Prayer for Relief**

7 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 8 a) Determining that this action is a proper class action;
9 b) Designating Plaintiff as a representative of the class under Federal
10 Rule of Civil Procedure 23;
11 c) Designating Plaintiff's counsel as counsel for the class under
12 Federal Rule of Civil Procedure 23;
13 d) Adjudging and declaring that Defendant violated 47 U.S.C. §
14 227(b)(1)(A)(iii);
15 e) Awarding Plaintiff and the members of the class damages under 47
16 U.S.C. § 227(b)(3)(B);
17 f) Awarding Plaintiff and the class reasonable attorneys' fees, costs,
18 and expenses under Rule 23 of the Federal Rules of Civil
19 Procedure;
20 g) Awarding Plaintiff and the members of the class any pre-judgment
21 and post-judgment interest as may be allowed under the law; and
22 h) Awarding such other and further relief as the Court may deem just
23 and proper.

24 **Demand for Jury Trial**

25 Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a
26 trial by jury of any and all triable issues.
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1 Date: May 12, 2025

/s/ Dana J. Oliver

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